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OFFICE OF PETITIONS

In re Application of :
Boris Atlas :
Application No. 09/828,029 : DECISION GRANTING PETITIONS
Filed: April 6, 2001 : UNDER § 1.48(e) and § 1.183
Attorney Docket No. 9323.055.00-US :
:

This is a combined decision on the "PETITION TO SUSPEND THE RULES UNDER 37 C.F.R 1.183", filed September 20, 2005, to waive the requirement under § 1.48(a)(2) for execution of the required statement by the inventor being deleted from the application.

The above-identified application was filed on April 6, 2001. On January 4, 2005, applicant filed a request for correction of inventorship under 37 CFR 1.48(a). However, in an Office action mailed May 20, 2005, the Examiner dismissed the request. The request under 37 CFR 1.48(a) lacked a statement from the inventor being deleted (In-Kwon Jeong) that such error in inventorship occurred without deceptive intent. On September 20, 2005, applicant filed the instant petition.

37 CFR 1.48(a) requires:

- (1) A request to correct the inventorship that sets forth the desired inventorship change;
- (2) A statement by the person or persons whose names are being deleted that the inventorship error occurred without deceptive intention on the part of such person or persons;
- (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
- (4) The processing fee set forth in § 1.17(i); and
- (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (3), (4) and (5) above. The petition sets forth the desired inventorship change. Petitioner has paid the processing fee. Petitioner previously filed a declaration on January 4, 2005. In addition, on January 4, 2005, petitioner included written consent from Carol W. Wu, Chapter 7 Trustee for assignee Oriol, Inc.

Petitioner requests waiver of the requirement that In-Kwon Jeong sign the statement that the inventorship error occurred without deceptive intent. In support thereof, petitioner has provided a statement of facts by Anthony Johnson, stating: (1) during a phone conversation with Jeong on March 18, 2005, Johnson explained that Jeong was not an inventor; (2) Jeong stated that he did not want to sign anything without speaking to his attorney; and (3) that Johnson mailed letters to Jeong on March 18, 2005 and April 22, 2005, requesting that Jeong sign the required statement under 37 CFR 1.48(a)(2).

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. Petitioner has shown that Jeong has been given the opportunity to sign the statement under 37 CFR 1.48(e)(2), but refuses to do so.

Accordingly, the petition under § 1.183 is GRANTED.

In view thereof, the petition under § 1.48(e) is GRANTED.

Receipt of the \$400 petition fee is acknowledged. The \$130 processing fee required by 1.48(a)(4) was previously filed on January 4, 2005.

Accordingly, the declaration filed on January 4, 2005 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(2) that the person being deleted sign a statement that the inventorship error occurred without deceptive intent has not been satisfied.

The matter is being forwarded to Group Art Unit 3753 for consideration of the amendment filed September 20, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)



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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/828,029	04/06/2001	3753	561	ORL-004	6	34	5

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CONFIRMATION NO. 6430
CORRECTED FILING RECEIPT
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Date Mailed: 04/05/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

BORIS ATLAS, SAN JOSE, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/780,713 02/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/828,029

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI-CHANNEL TEMPERATURE CONTROL SYSTEM FOR SEMICONDUCTOR PROCESSING FACILITIES

Preliminary Class

165

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